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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,647	10/11/2001	Thomas H. Wright	ASD-15; H6206 (51021 CON1	2560
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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			EXAMINER CROSLAND, DONNIE L	
			ART UNIT 2632	PAPER NUMBER
			DATE MAILED: 06/12/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/976,647	WRIGHT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DONNIE L. CROSLAND	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 2-4-03; 9-23-02.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 59-75 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 59-75 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z .	6) <input type="checkbox"/> Other: _____ .

### **DETAILED ACTION**

Applicants contend that the amendment places patentable features previously claimed in dependent claims 60, 61, 71, and 72 in independent format and accordingly, an interference should be declared.

The mere placement of these claims in independent form does not overcome the rejection as applied to the dependent claims 60, 61, 71, and 72 in the office action dated 8-9-02.

These independent claims remain unpatentable for the reasons advanced in the office action dated 8-09-02.

Claim 59 remains unpatentable.

An interference cannot be initiated since a prerequisite for interference under 37 CFR 1.606 is that the claim be patentable to the applicant subject to a judgment in the interference.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 59, 62-70, and 75 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ross et al.

Ross shows an aircraft data transmission system, the aircraft having a data acquisition unit 10 comprising a communication unit 24 located in the aircraft and in communication with the data acquisition unit 10; a cellular infrastructure (col. 4, lines 40-50) in communication with the communication unit 10 after the aircraft has landed, wherein the communication is initiated automatically upon landing of the aircraft; and a data reception unit 32 in communication with the cellular infrastructure, see col.5, lines 48 et seq., wherein after the aircraft has landed, a second switch 14 communicates with the controller 10; further in col. 6, lines 13-36, acquired aircraft data is automatically communicated to the flight center's controller 32 upon the aircraft being downed. The term downed equates to landing, also, see claims 12 and 13.

Accordingly, Ross clearly anticipates these claims in disclosing the automatic activation of a switch associated with the landing or downing of the aircraft in which relevant acquired data is communicated through a cellular infrastructure to a ground base receiver.

With respect to claim 62, Ross discloses a modem, col. 6, and lines 48-51.

With respect to claim 63 an antenna is inherent in cellular infrastructures of Ross.

With respect to claim 64 the recited "router" is inherent in the cellular infrastructure of Ross are conventionally associated with cell infrastructures.

With respect to claim 69 recitation of a digital flight data acquisition unit, Ross discloses controller 10 can be a TI Travelmate 4000, col. 6, lines 37-40.

With respect to claim 67, receiver for data can be a mainframe, col. 5, and lines

Claims 65, 68, and 69 are clearly met by Ross as discussed above.

Claim 75 is clearly met by Ross with respect to processors in both the aircraft and the ground station each processing information with respect to a computer readable medium as illustrated in the flow chart in figure 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 60, 61, 71, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al in view of Miller et al (5,652,717) and Bannister.

Miller shows in figure 2 the acquisition of data from an aircraft 14, col. 2, lines 34-45, and provides for a telecommunication network 22 and internet communication, col. 3, lines 4-18, 65 et seq.

Miller is relied upon to show that it is conventional to manipulate the data received from the aircraft 14 through an Internet connection 30.

Claims 60 and 71 only recite that the data reception unit is in communication with the cellular infrastructure via the Internet.

Cellular infrastructure is clearly as 24 in Ross et al.

The Internet connection 30 which is at the reception unit provides an Internet access as disclosed by Miller

Accordingly, it would have been obvious to one having ordinary skill in the art to provide an internet connection for communication purposes in a reception unit because the specific use of providing an internet connection for communication purposes in an reception unit concerned with aircraft data acquisition and transmission is clearly suggested by Miller, see col. 3, lines 25-44, and specifically lines 40-44, for interactive internet support.

Bannister shows a data acquisition system and provides for conventional PSTN interfaced with the Internet, see figure 1 and related disclosure.

Accordingly, Bannister teaches the artisan the combined use of PSTN AND INTERNET.

Accordingly, at the time the invention was made, the combined use of cellular communication, Internet access, and PSTN are all well known and conventional as evidenced by the teachings of the references as discussed above.

Once the skilled artisan recognizes that the internet is employed at the reception unit of Ross as suggested by Miller, the skilled artisan would further recognize the use and advantages of employing conventional PSTN cellular infrastructure for internet communication as evidenced by the teachings of Bannister.

Patentable invention is not involved in employing Internet connection through the cellular phone system such as conventional (PSTN), see Bannister.

Claims 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al in view of Polivka et al, cited by applicants.

Polivka shows in an aircraft data acquisition and transmission means as shown in figure 3a and 3b, and provides for the acquisition of data such as a video camera 327 I figure 3a, compressing (323, figure 3a), encrypting (such as forward error correction encoder unit 330, figure 3b), segmenting and constructing packets of data from the segmented flight data (PSK/SPREAD spectrum modulator 361 in figure 3b), see col. 10, lines 13 et seq.

With respect to claim 74, the acknowledgement of receipt of the transmitted data is no more than the response due to the video teleconference as provided for in Polivka,

col. 10, such is no more than conventional bi-directional communication and would not involve patentable invention.

***Response to Arguments***

Applicant's arguments filed 2-4-03 have been fully considered but they are not persuasive. Applicants argue that patentable features previously claimed in dependent claims 60, 61, 71, and 72 are placed in independent claim format and further states that if at least one of the presented claims is not rejectable on any ground and is claiming the same invention as at least claim of the patent, the examiner should proceed to propose an interference.

The examiner contends for the reasons advanced above, the mere placement of these claims in independent form does not overcome the rejection as applied to the dependent claims 60, 61, 71, and 72 and now independent claims 60, 61, 71, and 72.

Accordingly, an interference is not proper.

Applicants argue that the prior art fails to suggest the use a public switched telephone network (PSTN) (claims 61 and 72).

Applicants argue that the prior art fails to suggest the use of the Internet, (claims 60 and 71).

In response to these arguments Ross et al shows communication apparatus 24 as being cellular telephone system.

It is noted that Ross does not suggest the use of the cellular infrastructure 24 via the PSTN as recited in claim 61 or the Internet as recited in claim 60.

The examiner contends that the PSTN is conventional and such works in combination with the conventional cellular telephone system of Ross.

The examiner contends that Internet is conventional and the combination of the Internet with cell networks (cellular infrastructure) is conventional.

Bannister shows such conventionality in showing a cellular infrastructure for example between mobile 650 and base station 640 (cellular infrastructure) and through the PSTN 200 to the Internet 300, see figure 1, col. 5, lines 3-21, col. 7, lines 8-35.

Accordingly, Bannister teaches the communication with a cellular infrastructure via the PSTN or via the Internet.

The examiner contends that Ross's use of a cellular telephone system as the communication link between the aircraft and reception unit (air traffic controller 30) would inherently suggest at least the basic structural apparatus as well as the inherent advantages such being a conventional base station that interfaces with the PSTN, and then either directly from the PSTN to a telephone user or from the PSTN through the Internet to an end user.

Accordingly, the cellular telephone system 24 by its very nature includes a PSTN and accordingly provides for Internet access.

Applicants argue that Miller fails to suggest the combined Internet operative with a cellular infrastructure.

It is submitted that Miller is only relied upon to show that it is well known to manipulate the data received from an aircraft through the Internet.

Miller provides for wireless communication of data from aircraft 14 to station 20 and then the data is wirelessly transmitted from the station 20 to a central location 40.

It is noted that Miller does not state that the communication link is of a cellular nature.

Ross is relied upon for this feature, communication apparatus 24.

Applicants argue that Bannister does not suggest downloading flight data from an aircraft to a cellular infrastructure and through a PSTN that receives data from the cellular system.

The examiner contends that Bannister was not relied upon for the above suggestion.

As stated in the last office action, Bannister is relied upon to show the conventionality a PSTN interfaced with a cellular system that includes base station 630 and interfaced with the Internet.

The specifics of downloading flight data from an aircraft to a cellular infrastructure and through a PSTN are addressed above with respect to Ross.

### ***Conclusion***

In conclusion it is felt that the issue is whether the skilled artisan would interpret the cellular telephone system 24 of Ross to include the basic cell structure such as a base station combined with a PSTN.

In view of the reasons advanced above, the cellular telephone system 24 of Ross includes the basic equipment that makes up the cellular telephone system such as a base station and PSTN.

The second issue is of the Internet combined with the cellular system is shown by Bannister in figure 1, Internet 300 communicating with cellular that includes mobile 650 and base station 640.

It should also be noted that the cellular telephone system infrastructure includes the Internet and PSTN.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is (703) 305-4388. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (703) 308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9052 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



DONNIE L. CROSLAND  
Primary Examiner  
Art Unit 2632

Dlc  
June 10, 2003